

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**Building Code Appeals Board
Docket No. 08-533**

Battery Engineering, Inc.,)	
division of Electrochem,)	
Appellant;)	
)	
v.)	
)	
Town of Raynham,)	
Appellee.)	
)	

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant has requested that the Board review Appellee's decision to deny the Appellant's application for a change to the plans for Town of Raynham Permit No. 15555 to allow an open staircase as a third means of egress at the property located at 670 Paramount Drive Raynham, MA

By letter dated November 28, 2007, Rod Palmer, Building Inspector for the Town of Raynham, ("Raynham"), informed Appellant that a proposed change to the plans for the lobby stair case violated 780 CMR 1014.11 and denied the change to the plans on the building permit.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR 1.02 et. seq.; and, the Board convened a public hearing on February 26, 2008 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and testifying at the hearing were Kevin Hastings of R.W. Sullivan, Inc., on behalf of Appellant and Raynham Building Commissioner Rod Palmer on behalf of Appellee.

Exhibits in Evidence

Exhibit 1: State Building Code Appeals Board Appeal Application Form, dated January 16, 2008, including supporting materials and plans.

Findings of Fact

Based on the credited testimony of the witnesses, the Board finds these facts:

1. The building is a new two story structure of approximately 76,000 square feet constructed for the purposes of office space, research, storage and the production of specialty batteries. On the second floor there is a cafeteria of approximately 4600 square feet. Use groups in the building are A, B, F, S and H-3 as a separated use for the storage of water reactive chemicals.
2. The calculated occupant load is 588, primarily because of the 4600 square feet of the cafeteria. The Appellant states that planned occupancy is for 220 employees.
3. The building is fully equipped with an automatic sprinkler system.
4. The two other egress stairways are fully enclosed.
5. The Appellee does not object to the granting of the variance.

Decision

Pursuant to M.G.L. c. 143, § 100, the Board has the authority to decide appeals by those "aggrieved by an interpretation, order, requirement, direction or failure to act by any state or local agency or any person or state or local agency charged with the administration or enforcement of the state building code."

The issue is whether the Appellant should be granted a variance from the provisions of 780 CMR 1014.11 to allow a change to the plans as permitted: for the third egress stairway in the building to be open. For the following reasons, the Board **ALLOWS** the appeal.

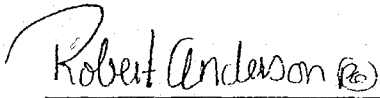
The Board noted that the Appellee did not object and that the proposed occupancy of 220 was well below the calculated occupant load of 588. The Board also noted that under the draft Seventh Edition of the Massachusetts Building Code, Section 1019.1, all three egress stairways in a two story building equipped with an automatic sprinkler system would be allowed to be open in all of the planned use groups of the building except for the H-3, which is in a separated space in the building.

The Chair entertained a motion to grant the variance from the provisions of 780 CMR 1014.11 and allow the issuance of the change to the plans for the permit for the third egress stairway to be open. The Board voted as indicated below.

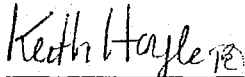
X..... **Granted** Denied Rendered Interpretation
.....Granted with conditions Dismissed

The vote was:

X.....**Unanimous** Majority



Robert Anderson



Keith Hoyle

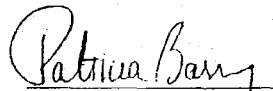


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Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: June 19, 2008


Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$5.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

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BBRS/Department of Public Safety
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